

NOT TO BE INCLUDED  
IN BOUND VOLUMES

BH  
Elizabeth, NJ

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

PLAZA HEALTHCARE AND  
REHABILITATION LLC.  
Employer

and

Case 22-RC-013206

1199 SEIU, UNITED HEALTHCARE  
WORKERS EAST, NJ REGION  
Petitioner

LOCAL 707, HEART, HEALTH EMPLOYEES  
ALLIANCE RIGHTS & TRADES  
Intervenor

DECISION AND CERTIFICATION OF REPRESENTATIVE

The National Labor Relations Board<sup>1</sup> has considered objections to an election held on August 4, 2011, and the hearing officer's and Regional Director's reports recommending disposition of them. The election was conducted pursuant to a Stipulated Election Agreement. The revised tally of ballots shows 33 for the Petitioner, 31 for the Intervenor, and none against the participating labor organizations. There was one challenged ballot, which was insufficient to affect the results.

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<sup>1</sup> Chairman Pearce is recused and did not participate in this matter. In *New Process Steel, L.P. v. NLRB*, 130 S. Ct. 2635 (2010), the Supreme Court left undisturbed the Board's practice of deciding cases with a two-member quorum of a panel when one of the panel members has recused himself. Under the Court's reading of the Act, "the group quorum provision [of Sec. 3(b)] still operates to allow any panel to issue a decision by only two members if one member is disqualified." *New Process Steel*, 130 S. Ct. at 2644; see also *Correctional Medical Services*, 356 NLRB No. 48, slip op. at 1 fn. 1 (2010). The same is true here where one of three Members of the full Board deciding the case is recused.

The Board has reviewed the record in light of the exceptions and briefs, has adopted the hearing officer's and Regional Director's findings and recommendations, and finds that a certification of representative should be issued.<sup>2</sup>

### CERTIFICATION OF REPRESENTATIVE

IT IS CERTIFIED that a majority of the valid ballots have been cast for 1199 SEIU, United Healthcare Workers East, NJ Region, and that it is the exclusive collective-bargaining representative of the employees in the following appropriate unit:

All full-time, regular part-time and per diem LPNs, certified nurses aides (CNAs), nursing assistants, housekeeping employees, including maids, porters, orderlies and attendants, laundry employees, dietary employees, cooks and cook helpers, recreation employees and ward clerks employed by the Employer at its Elizabeth, New Jersey facility; but excluding all office clerical employees, receptionists, night charge nurses, RNs and other professional employees, guards and supervisors as defined by the Act.

Dated, Washington, D.C., December 31, 2011.

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Craig Becker, Member

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Brian E. Hayes, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

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<sup>2</sup> The Intervenor timely filed five objections to the conduct of the election. The Regional Director, on September 15, 2011, in a Report on Objections, directed that a hearing be held on Objections 1, 3, and 4 and, on September 23, 2011, in an Amended Report on Objections, overruled Objections 2 and 5. The Intervenor excepted to the hearing officer's recommendation to overrule Objection 3 and the Regional Director's recommendation to overrule Objection 5. The Intervenor withdrew Objection 4. In the absence of exceptions, we adopt pro forma the hearing officer's recommendation to overrule Objection 1 and the Regional Director's recommendation to overrule Objection 2.